



PARLIAMENT OF THE COOK ISLANDS

MARINE RESOURCES BILL

EXPLANATORY NOTE

This note does not form part of the Bill but is intended to indicate its effect.

The Marine Resources Bill 2017 will replace the Marine Resources Act 2005 with comprehensive, updated legislation that will—

- enable the Cook Islands to implement treaties and conventions relevant to the fishing industry;
- provide for the establishment of a Competent Authority to certify the quality of fish being exported from the Cook Islands;
- harmonise Cook Islands fisheries legislation with other regional regimes;
- enable quota management systems to be introduced for particular species, such as tuna;
- enable marine reserves and marine parks to be established;
- carry over and update provisions of the Marine Resources Act 2005 that are still relevant.

Clause 1 relates to the Title.

Clause 2 relates to commencement.

Clause 3 defines certain terms that are used in the Bill.

Clause 4 provides that the Act binds the Crown.

Part 1

Fisheries conservation and management

Part 1 sets out objectives, principles, and related measures. The principal objective is to provide for the sustainable use of the living marine resources in and around the Cook Islands for the benefit of the people of the Cook Islands. The Ministry of Marine Resources shares this objective. To support the principle objective, *Part 1* states the environmental and information principles, aquaculture principles, and social, cultural, and equity principles. *Part 1* also ensures that applicable international conservation and management measures are publicised and able to be implemented for the Cook Islands.

Part 2

Specific prohibitions

Part 2 carries over conservation measures in Part 3 of the Marine Resources Act 2005. Penalties for various offences are increased, including—

- the maximum fine for prohibited fishing methods, which is increased from \$10,000 to \$50,000:
- the maximum fine for certain driftnet fishing, which is increased from \$500,000 to \$1,000,000:
- the maximum fine for the commercial sale of endangered species, which is increased from \$50,000 to \$250,000.

Part 3

Marine reserves and parks

Part 3 provides for marine reserves and marine parks to be established by Order in Executive Council. These reserves and parks may be established for purposes such as—

- protecting the flora and fauna of an area:
- protecting and preserving the natural breeding and nursery grounds of aquatic life:
- sustaining livelihoods which rely on aquatic living resources:
- promoting scientific study of an area.

Particular offences that carry fines of up to \$500,000 are created to regulate activities in marine reserves and marine parks.

Part 4

Development and management of fisheries and aquaculture

Subpart 1—Fishery areas, plans, agreements, etc

Subpart 1 relates to the management of fisheries and aquaculture. This Part carries over and updates provisions relating to aquaculture management areas, designated fisheries (including local fisheries), fishery plans, exploratory fishing, access agreements, and fisheries management agreements.

Subpart 2—Quota management system

Subpart 2 provides the framework for the establishment of a quota management system for any suitable fishery. A fishery plan under *subpart 1* may establish a quota management system for any species of fish to which the plan relates, such as tuna. Regulations may be made under *subpart 2* for related matters such as the adjustment of quota allocations provided under the fishery plan and catch reporting.

Part 5

Licensing

Subpart 1—Licensing

Subpart 1 provides for the licensing of fishing vessels operating in Cook Islands fishery waters. Licences for foreign vessels are to be issued by the Minister and licences for Cook Islands vessels by the Secretary. If a foreign vessel operates in those waters illegally, the operator and the master each commit an offence and are liable to a fine of up to \$1,000,000. Any vessel 10 metres or over in length must be licensed before operating in those waters.

Licences are valid for up to 12 month and are subject to suspension or cancellation for contravention of the legislation.

Subpart 2—Authorisations

Subpart 2 provides for authorisations to carry out scientific research operations, transshipment, or bunkering.

Part 6 Distant water fisheries

Part 6 relates to distant water fisheries. Under section 35 of the Marine Resources Act 2005, the Minister may issue a licence to permit a Cook Islands fishing vessel to fish in areas beyond the fishery waters. This section requires the Minister to obtain the concurrence of Cabinet and is subject to any relevant multilateral access agreement or related agreement. *Part 6* establishes a new system for the regulation and control of such fishing under which the Secretary may issue licences in appropriate cases.

The Secretary may refuse to grant an application if any of the following circumstances apply:

- the vessel, its owners, charterers, or operators are not in good standing on the regional register maintained by the Pacific Islands Forum Fisheries Agency;
- the vessel is on a list maintained by a regional fisheries management organisation of vessels that are believed to have engaged in illegal, unreported, or unregulated fishing;
- the vessel has been involved in the commission of a serious violation of an international conservation and management measure;
- the Secretary has reason to believe that the vessel has been used for the trafficking of people or drug trafficking, or that fish workers on board the vessel have been treated in a cruel or inhumane manner.

Related offences are created and offenders are liable for fines of up to \$1,000,000.

Part 7 Port measures

Part 7 relates to port measures. Under this Part, ports may be designated in the Cook Islands for access by foreign fishing vessels, Cook Islands distant water fishing vessels, or Cook Islands fishing vessels authorised to fish on the high seas or in the fishery waters. The Secretary will be able to prohibit a fishing vessel from entering a port in specified circumstances. *Part 7* also provides for port inspectors to be appointed.

Part 8 Processing and export

Part 8 relates to fish and fish products intended for human consumption that—

- are intended for, or undergoing processing within, the Cook Islands;
- have been processed or are purported to have been processed in the Cook Islands;
- have been caught on Cook Islands registered vessels and discharged in a foreign port;
- are destined for export.

Part 8 provides for the Secretary or an officer or employee of the Ministry delegated by the Secretary to be a Competent Authority for the purposes of this Part. The functions of a Competent Authority are to ensure—

- the application in the Cook Islands of appropriate quality control measures and seafood production industry standards;
- facilitation of exports from the Cook Islands of all categories of seafood for human consumption.

Part 9

Monitoring, control and surveillance

Part 9 provides for the appointment of authorised officers and their powers of entry, search, seizure, and arrest. It also provides for dealing with seized property, the placement of observers on fishing vessels, and mobile transmission units.

Part 10

Administrative penalties and structured settlements

Part 10 enables the Secretary to impose administrative penalties in certain cases instead of laying an information or a charge for the offence. This Part applies where a person commits an offence against this legislation or any other Cook Islands law that relates to fishing or aquaculture that carries a penalty of a fine not exceeding \$250,000. The Secretary may impose an administrative penalty for an alleged offence if he or she considers that the alleged offence is of a minor nature and, having regard to the previous conduct of the vessel and of the person concerned in Cook Islands fishery waters, it would be appropriate to impose a penalty.

Part 10 also enables the Secretary to enter into a settlement agreement with any person who commits any offence against the Act, as an alternative to commencing a prosecution.

Part 11

Jurisdiction and evidence

Part 11 relates to jurisdiction and evidence for the purposes of the enforcement of this legislation.

Part 12

Sale, release, and forfeiture of retained property

Part 12 provides for the sale, release, and forfeiture of property retained by the Government under this legislation in the course of enforcing the legislation.

Part 13

General

Part 13 provides for general matters, including the confidentiality of official information, the payment of rewards for information supplied, the keeping of official accounts and records, the giving of notices, and the making of regulations.
